

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ANTHONY BYRD,

Petitioner,

v.

WARDEN TIM SHOOP,

Respondent.

CASE NO. 2:19-CV-4266

JUDGE JAMES L. GRAHAM

Magistrate Judge Chelsey M. Vascura

ORDER

On October 23, 2019, the Magistrate Judge issued a Report and Recommendation pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Court recommending that petitioner's Fourth Amendment claim be dismissed, as it is not cognizable in a habeas action. (ECF No. 2.) Although the parties were advised of the right to file objections to the Magistrate Judge's Report and Recommendation, and of the consequences of failing to do so, no objections have been filed.

The Report and Recommendation (ECF No. 2) is **ADOPTED** and **AFFIRMED**. The Fourth Amendment claim (Ground One) is hereby **DISMISSED**. This action will proceed as to the insufficiency of evidence claim (Ground Two).

Petitioner has waived the right to appeal by failing to file objections. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Therefore, the Court **DECLINES** to issue a certificate of appealability.

IT IS SO ORDERED.

Date: November 18, 2019

s/James L. Graham
JAMES L. GRAHAM
UNITED STATES DISTRICT JUDGE